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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING
Case No. 19-cv-210-s

JAMES DRUSE,)
Plaintiff,)
vs.)
ALOTA SAND & GRAVEL, INC.,)
DEPATCO, INC., and)
JAMES ROBERTS, Individually,)
Defendants.)

**PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO RESPOND TO DEPATCO,
INC.'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Plaintiff, James Druse, by and through his attorneys, L. Cooper Overstreet, Scott A. Homar and Jeffrey M. Boldt of OVERSTREET HOMAR & KUKER and hereby files *Plaintiff's Motion for Extension of Time to Respond to Depatco, Inc.'s Motion for Summary Judgment*. As a basis for said Motion, Plaintiff states as follows:

History of Proceedings

1. On October 10, 2019, Plaintiff filed his *Complaint* against Alota Sand & Gravel, Inc. (“Alota”), and James Roberts (“Roberts”) individually.
2. On November 14, 2019, Defendants’ Alota and Roberts filed their *Answer to Plaintiff’s Complaint and Jury Demand*.
3. On January 6, 2020, an initial pretrial conference was held and an *Order on Initial Pretrial Conference* was issued setting forth various deadlines, including a deadline of January 17, 2020, for Plaintiff to file a Motion for Leave to Amend the Complaint.

4. On January 17, 2020, based on representations from counsel for Alota and Roberts that Depatco, Inc. (“Depatco”) had purchased Defendant Alota and assumed its assets and liabilities, Plaintiff filed his *Plaintiff’s Motion for Leave to File First Amended Complaint*.

5. On January 21, 2020, Plaintiff filed his *First Amended Complaint* adding Depatco, as a Defendant.

6. On February 20, 2020, Plaintiff filed his *Plaintiff’s Motion for Extension of Time*, asking for an extension of various deadlines which was partially based on the uncertainty regarding the inclusion of Depatco as a Defendant.

7. On February 24, 2020, after a telephonic status conference, the Court issued a *Civil Minute Sheet Status Conference*, ordering that all deadlines were stayed until further notice and setting a further Telephonic Hearing on Motion for Extension of Time for May 5, 2020.

8. On February 28, 2020, Depatco filed its *Answer of Depatco, Inc. to First Amended Complaint*, and *Depatco, Inc.’s Motion for Summary Judgment*.

9. On March 5, 2020, after another telephonic status conference, the Court continued the Status Conference to March 19, 2020 to allow the parties to further discuss the *Depatco’s Motion for Summary Judgment*, and continued the stay on all deadlines and hearings pending the March 19, 2020.

Argument

1. To date, counsel for Alota and Roberts has represented that Depatco purchased Alota and its assets and liabilities, subsequent to the motor vehicle collision which gave rise to this litigation.

2. Additionally, in its written discovery responses to Plaintiff, Alota consistently answered that “any files from the time period relevant to the present action were transferred to

Alota Sand & Gravel's new ownership in February 2017 and are no longer within its possession, custody or control" (See Exhibit A attached hereto).

3. It is certainly a unique situation wherein one Defendant asserts it is owned by another party who is in possession of many of the relevant documents in the case, while that party, the other Defendant, denies any involvement.

4. As a result, discovery is necessary to determine who is truly a necessary party to this litigation.

5. Therefore, Plaintiff seeks a forty-five day extension of time to respond to Depatco's Motion for Summary Judgment beginning on the date Plaintiff receives Depatco's Rule 26 Disclosures in order to allow Discovery requests and responses relevant to the question of who owns Alota's liabilities.

Conferral

6. On March 12, 2020, Plaintiff's counsel conferred with counsel for Defendant Depatco, Inc. Counsel for Depatco, Inc. indicated that he did not object to an extension of 10 days to respond but objected to a lengthier extension.

WHEREFORE, Plaintiff, James Druse, hereby requests this Court issue an Order extending Plaintiff's response deadline to a later date.

RESPECTFULLY submitted this 13th of March 2020.

By: /s/ L. Cooper Overstreet
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of March 2020, the above document was served as follows:

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